

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 786 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? No.

2. To be referred to the Reporter or not? No.

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3. Whether Their Lordships wish to see the fair copy of the judgement? No.

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any GOrder made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? No.

G. S. R. T. CORPORATION

Versus

GANPATBHAI SITARAM JAISWAL

Appearance:

MRS KETTY A MEHTA, Advocate, for Petitioner.

NOTICE NOT RECD BACK for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 05/07/96

ORAL JUDGEMENT

None appears for the respondent. It is a matter of 1984. The petitioner has not taken any step to get the notice served upon the respondent. I do not find any justification in case of the petitioner not taking any step for service of the notice of this Special Civil Application on the respondent. Be that as it may I call upon the learned Counsel for the petitioner to make

submission on merits of the case.

2. The respondent - workman on the misconduct of issuing tickets of Rs.5 denomination to 8 passengers after holding domestic inquiry was dismissed from the service. The matter was taken up by the workman respondent to the Labour Court by way of reference made by the Gujarat State u/s 10 of the Industrial Disputes Act, 1947. The Labour Court considered the punishment of dismissal of the workman respondent from the job too harsh and by extending mercy he was ordered to be reinstated back in service with continuity of the service. The Labour Court has not awarded any back wage for the interregnum period to the workman - respondent. The liberty has also been granted to the Corporation to inflict punishment of stopping of one increment for one year after reinstatement of the workman - respondent.

3. This Special Civil Application has been admitted by this Court on 6-8-1984. But the interim relief was not granted in favour of the Corporation though a prayer has been made. The learned Counsel for the petitioner has fairly conceded that in pursuance of the award of the Labour Court the respondent - workman has been reinstated back in service. The learned Counsel for the petitioner is unable to bring on record any material that after reinstatement of the workman - respondent was not discharging his duties satisfactorily though for last 12 years the respondent - workman is working. Otherwise also it is within competence of the Tribunal to go into that question of quantum of punishment. Taking into consideration of over all facts of the case, it considered the punishment of dismissal to be harsh. The learned Counsel for the petitioner has failed to point out any error apparent on the face of the award of the labour court. It cannot be said that the respondent workman was altogether set free. The Labour Court has not awarded any back wage to the workman. The workman was dismissed in the year 1974-75 whereas the Labour Court decided the matter in the year 1983. The workman respondent has not been given back wages for about 8 to 9 years, which was a substantial amount. Apart from this, reading of the award of the Labour Court gives out that penalty of dismissal has been substituted by penalty of withholding one increment of the workman - respondent, may be for one year.

4, Taking into consideration totality of the facts of the case and the fact that I do not find any error apparent on the face of the award, this Special Civil Application deserves to be dismissed. In the result,

this Special Civil Application fails and the same is
dismissed. Rule is discharged.

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